

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DENT WIZARD INTERNATIONAL )  
CORPORATION )  
 )  
Plaintiff, )  
 )  
 )  
vs. ) Case No. 4:06CV00492 ERW  
 )  
DARYL STERNER, )  
 )  
 )  
Defendant. )

**MEMORANDUM AND ORDER**

This matter is before the Court upon Plaintiff's Motion to Compel Complete Discovery Responses [doc. #49]. A hearing was held on January 31, 2007. Counsel for Defendant failed to appear for the hearing.

In this breach of contract action, Plaintiff Dent Wizard International Corporation ("Plaintiff") requests that this Court enter an order compelling Defendant Daryl Sterner ("Defendant") to answer Plaintiff's interrogatories and produce certain documents, as identified in Plaintiff's First Set of Interrogatories and First Request for Production of Documents. According to Plaintiff, the requests are discoverable because it is relevant to the merits of the claims raised by Plaintiff in this case. In opposing the Motion, Defendant states that Plaintiff's requests are overbroad, vague, unduly burdensome, and irrelevant.

Pursuant to Federal Rule of Civil Procedure 26, "[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party." Fed. R. Civ. P. 26(b)(1). It appears to the Court that the materials sought are relevant and entirely discoverable. Therefore, the Court will order that the materials be produced, within ten (10) days of the date of

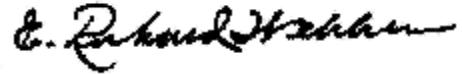
this Order. Counsel for Defendant shall show cause no later than ten (10) days of the date of this Order, why Defendant should not be held in contempt of Court, for failure to appear for today's hearing.

After the hearing, Attorney for Defendant called to explain that he was unable to attend the hearing in this matter because his wife was in the hospital in labor with twins. The Court will, therefore, vacate the above Order.

Accordingly,

**IT IS HEREBY ORDERED** that the above Order will be **VACATED**. Counsel for all parties shall appear by telephone before this Court on February 8, 2007 at 3:00 p.m., on Plaintiff's Motion to Compel Complete Discovery Responses [doc. #26]. Counsel must be available for the call to be initiated by the Court.

Dated this 1st day of February, 2007.



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E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE